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10/042,738	05/24/2002	Philip O. Gerard		6924

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

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Please find below and/or attached an Office communication concerning this application or proceeding.



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GROUP 3600

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/042,738
Filing Date: May 24, 2002
Appellant(s): GERARD, PHILIP O.

Charles E. Burpee
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 18, 2004.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct. It should be noted that the applicant has chosen not to appeal claims 18 and 19. Accordingly, claims 18 and 19 will not be reviewed on appeal since, by not appealing claim 18 and 19, the applicant has acquiesced to the rejection presented in the final office action of September 23, 2003.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

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(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 1, 3-7 and 9-12 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. Therefore, only one of claims 1, 3-7 and 9-12 will be considered on appeal. See 37 CFR 1.192(c)(7).

The rejection of claims 13-17 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. Therefore, only one of claims 13-17 will be considered on appeal. See 37 CFR 1.192(c)(7).

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

5,570,548	Hopper	11-1996
6,272,801	Suh	8-2001

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

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Claims 1, 3-7 and 9-12 are rejected under 35 U.S.C. 102(b). This rejection is set forth in a prior Office Action, mailed on September 23, 2003.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suh in view of Hopper. Suh discloses in figures 9A, 9B and 10, a window frame comprising a first frame half 130 including a plurality of barbs 167 monolithically formed with the first frame half, a second frame half 140 including a plurality of receivers 167 monolithically formed with said second frame half, the second frame half having a ship orientation (shown in figure 10) with respect to the first frame half, each receiver 167 receiving only one of the barbs 167. Suh is silent concerning an install orientation.

However, Hopper discloses a window frame comprising a first frame half 10a, a second frame half 10b having a ship orientation (not shown, but comprising the condition where only one of the barbs of the first means 35 engages only one of the barbs of the connector 80) and an install orientation (shown in figure 10) with respect to the first frame half, the second frame half being moved between the ship and install orientations by rotating the whole assembly which includes rotating the second frame half within its own plane and then moving the first and second halves toward one

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another until the position in figure 10 is reached, first connector means comprising the first (distal) barb of the connectors 35, 38 for releasably interconnecting the first and second frame halves when the second frame half is in the ship orientation, the first connector means being integral with the first and second frame halves, and second connector means comprising the second (proximate) barb of the connectors 35, 38 for securely interconnecting the first and second frame halves only when the second frame half is in the install orientation, the second connector means also be integral with the first and second frame halves.

It would have been obvious to one of ordinary skill in the art to provide Suh with a plurality of barbs and receivers with their attendant install and ship orientations, as taught by Hopper, to more securely connect the frame halves together.

It should be noted that the order in which the references are used is not a new ground of rejection because the rejection above relies on the same teachings of the references as the rejection applied in the Office action of September 23, 2003. *In re Albrecht*, 579 F.2d, 92, 198 USPQ 208 (CCPA 1978); *In re Cook*, 372 F.2d 563, 152, USPQ 615 (CCPA 1967); *In re Bush*, 296 F.2d 491, 131 USPQ 263 (CCPA 1961).

(11) Response to Argument

Hopper anticipates the invention set forth in claims 1, 3-7 and 9-12. First, Hopper discloses a first frame half 10a and a second frame half 10b. The first and second frame halves are connected together by pushing the frame halves together such that the barbs of the H shaped connector 80 engage with the barbs of the connectors 35

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and 38. As the frames are first pushed together, the distal barb, i.e., the first connector means, of the connectors 35 and 38 engages the most distal barb of the H shaped connector 80. This orientation comprises the ship orientation. Then, as the frames are pushed further together, the distal barb of the connectors 35 and 38 engages the proximate barb of the H shaped connector. This orientation comprises the install orientation as shown in figure 10. The only way of connecting the first and second frame halves, as disclosed by Hopper, requires the barbs of the connectors 35 and 38 and the barbs of the H shaped connector 80 to sequentially connect with each other as explained above. Additionally, when the first and second frame halves are in the ship orientation, only the distal barbs of the connectors 35 and 38 are engaged with the barbs of the H shaped connector. Therefore, the second connector means, i.e., the proximate barb of the connectors 35 and 38 do not engage the H shaped connector and, accordingly, do not provide any connection function. Only when the first and second frame halves are in the install orientation do the proximate barbs of the connectors 35 and 38 engage the H shaped connector to provide a connection function. Finally, since the applicant has failed to define any element of the invention which the second frame half is rotated with respect to, the second frame half can be moved between the ship and install orientations by simply rotating the whole assembly in its own plan and then pushing the frame halves together such that they move from the ship orientation to the install orientation. Rotating the whole assembly in its own plane requires the second frame half to rotate in its own plane.

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Therefore, Hopper discloses a ship orientation when only the distal barbs of the connectors 35 and 38 engage the H shaped connector and an install orientation when both the barbs of the connectors 35 and 38 engage the H shaped connector. Hopper discloses two connector means. The first comprising the distal barb of the connectors 35 and 38 and the second comprising the proximate barb of the connectors 35 and 38. The second connector means are only operative when the frame halves are in the install orientation as shown in figure 10. Since the connector means, i.e., the barbs of the connectors 35 and 38 are monolithically formed with the frame halves 10a and 10b, the connectors means are clearly integral or unitary with the frame halves. The mere fact that Hopper discloses elements in addition to those disclosed and/or claimed by the applicant, does not prevent Hopper from anticipating the claims.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,




Gregory J. Strimbu

Primary Examiner

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June 14, 2004

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